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FIRE INSURANCE COMPANY and GOLDEN EAGLE INSURANCE
CORPORATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHAW MORTGAGE
CORPORATION dba
PATIOSOURCE & THE NATURAL
TOUCH, a California Corporation

Plaintiffs,

v.

PEERLESS INSURANCE
COMPANY, a New Hampshire
Company; GOLDEN EAGLE
INSURANCE CORPORATION, a
California Corporation; LIBERTY
MUTUAL INSURANCE COMPANY,
a Massachusetts Company; and DOES
1 – 20, inclusive,

Defendants.

CASE NO.: 08 CV 0709 BTM AJB

SDSC Case No. 37-2007-00084451-CU-BC-
CTL

**NOTICE OF MOTION AND MOTION
TO DROP GOLDEN EAGLE
INSURANCE CORPORATION AS A
SHAM DEFENDANT PURSUANT TO
F.R.C.P. RULE 21; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF;
DECLARATION OF DALE A.
AMATO**

**[Per Chambers, no oral argument
unless requested by the Court.]**

**DATE: 6-6-08
TIME: 11:00 a.m.
COURTROOM: 15**

Date Complaint Filed: 12/21/2007

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

PLEASE TAKE NOTICE that on June 6, 2008, or as soon thereafter as the matter
may be heard at the above-captioned court, located at 880 Front Street, San Diego,

1 California, 92101, Defendant Peerless Insurance Company (“PEERLESS”) will move
2 this court to drop improperly joined defendant Golden Eagle Insurance Corporation
3 (“GOLDEN EAGLE”) from this lawsuit. This motion is brought pursuant to Rule 21 of
4 the Federal Rules of Civil Procedure, and is made on the grounds that GOLDEN EAGLE
5 is a sham defendant, named only to defeat diversity jurisdiction as it was not the insuring
6 entity identified on the policy of insurance that is attached as an exhibit to the Plaintiff’s
7 First Amended Complaint.

8 This Motion is based upon this Notice of Motion, the accompanying
9 Memorandum of Points and Authorities, the Declaration of Dale A. Amato and the entire
10 court file in this matter, and on such other argument and evidence that may be presented
11 at the hearing on this Motion.

12 DATED: April 18, 2008

BERGER KAHN
A Law Corporation

13 By: S/Dale A. Amato
14 DALE A. AMATO
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